

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

May 12, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROLANDO VARGAS, (03),

Defendant.

No. 1:19-cr-02058-SMJ-03

**ORDER GRANTING IN PART  
DEFENDANT VARGAS’S (03)  
MOTION TO SEVER**

Before the Court, without oral argument, is Defendant Rolando Vargas’s (03) Motion and Memorandum in Support of Bruton Motion and Request for Severance, ECF No. 95. Defendant Vargas moves for his trial to be severed from those of his co-Defendants because one of his co-Defendants, Defendant Juanita Ramirez (04), made admissions to law enforcement that incriminated herself, Defendant Vargas, and their other co-Defendants, that the Government may introduce at trial. *Id.* at 1–4. The Government contends the appropriate remedy for whatever prejudice may result from the admission of Defendant Ramirez’s statements is to sever Defendant Ramirez, rendering the motion moot. ECF No. 106 at 2–3.

Federal Rule of Criminal Procedure 14(a) permits the Court to sever the trials of multiple defendants where a consolidated trial may result in prejudice to one or

ORDER GRANTING IN PART DEFENDANT VARGAS’S (03) MOTION TO SEVER – 1

1 more defendants. As relevant here, a violation of the Sixth Amendment's  
2 Confrontation Clause occurs when, in a case involving joined co-defendants, "a  
3 facially incriminating confession of a non[-]testifying codefendant is introduced at  
4 their joint trial, even if the jury is instructed to consider the confession only against  
5 the codefendant." *United States v. Peterson*, 140 F.3d 819, 821 (9th Cir. 1998)  
6 (citing *Bruton v. United States*, 391 U.S. 123, 126 (1968)).

7 On May 7, 2020, the Government filed, for *in camera* review, records of the  
8 statements made by Defendant Ramirez from which potential *Bruton* prejudice may  
9 result. Though the Court finds it unnecessary to detail the content of those  
10 statements here, it agrees with the Government that the most effective manner in  
11 which to eliminate potential *Bruton* concerns is to sever Defendant Ramirez from  
12 her co-Defendants, rather than to sever Defendant Vargas.

13 Defendant Vargas appears to argue the Court lacks the authority to sever  
14 Defendant Ramirez because Defendant Vargas's is the only motion for severance  
15 presently before the Court. *See* ECF No. 117 at 1–2. However, the Court construes  
16 the Government's response to Defendant Vargas's motion as its own motion to  
17 sever Defendant Ramirez. *See* ECF No. 106 at 1 ("The United States submits the  
18 severance is not necessary regarding Defendant Vargas because co-Defendant  
19 Juanita Ramirez should be tried separately from the remaining Defendants.").  
20 Though far less common, courts have recognized Rule 14 permits motions for

1 severance brought by the prosecution. *See, e.g., United States v. Sudeen*, 434  
2 F.3d 384, 387–88 (5th Cir. 2005). In the alternative, nothing in Rule 14’s text  
3 confines the Court to severing a defendant on motion of the parties and, having  
4 reviewed the contents of Defendant Ramirez’s statements, the Court finds the  
5 potential for *Bruton* prejudice would require severing her even in the absence of a  
6 request by either party. As such, the appropriate remedy is to sever only Defendant  
7 Ramirez.

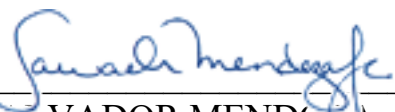
8 Accordingly, **IT IS HEREBY ORDERED:**

9 **1.** Defendant Rolando Vargas’s (03) Motion and Memorandum in  
10 Support of Bruton Motion and Request for Severance, **ECF No. 95**, is  
11 **GRANTED IN PART.**

12 **2.** Defendant Juanita Ramirez (04) is **SEVERED** from the other  
13 Defendants in this matter.

14 **IT IS SO ORDERED.** The Clerk’s Office is directed to enter this Order and  
15 provide copies to all counsel and the U.S. Probation Office.

16 **DATED** this 12th day of May 2020.

17   
18 **SALVADOR MENDOZA, JR.**  
19 United States District Judge  
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